## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHWESTERN DIVISION

PENNY WHITSON,	)
Plaintiff,	)
vs.	) Case 07-5016-CV-SW-RED-P
RICHARD L. HILL, et al.,	)
Defendants.	)

## ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL AND DIRECTING PLAINTIFF TO PAY \$455.00 FILING FEE OR RENEW HER APPLICATION IN THE EIGHTH CIRCUIT COURT OF APPEALS

This is a 42 U.S.C. § 1983 civil rights matter. On January 18, 2008, the Court entered its Order (Doc. No. 40) and Judgment (Doc. No. 41) granting defendants' joint motion for summary judgment (Doc. No. 29), and entering judgment in favor of defendants and against plaintiff. On February 4, 2008, plaintiff filed a notice of appeal (Doc. No. 42), and on February 25, 2008, she filed an affidavit (Doc. No. 44) in support of her request for leave to proceed in forma pauperis on appeal, as well as updated account information (Doc. No. 45).

Because plaintiff's account information does not include a full six months preceding the filing of her notice of appeal, as required by the statute, she will not be required to pay a partial, initial appellate filing fee at this time. However, federal law "makes prisoners responsible for their filing fees the moment the prisoner . . . files an appeal." Henderson v. Norris, 129 F.3d 481, 483 (8th Cir. 1997) (citations omitted). Therefore, plaintiff will be responsible for paying the full \$455.00 appellate filing fee as funds become available.

Under 28 U.S.C. § 1915(a)(3) (as amended Apr. 26, 1996), an appeal may not be taken <u>in</u> forma pauperis if the trial court certifies in writing that it is not taken in good faith. See Fed. R. App.

P. 24(a). Good faith requires that petitioner's argument on appeal must not be frivolous. Coppedge

v. United States, 369 U.S. 438, 445 (1962).

Because a review of the file and records in this case reveals that the issues sought to be

presented are plainly frivolous, it is **ORDERED** that plaintiff is denied leave to proceed in forma

pauperis on appeal.

It is further **ORDERED** that plaintiff either must pay the \$455.00 appellate filing and

docketing fees or renew her application for leave to proceed in forma pauperis with the United States

Court of Appeals for the Eighth Circuit within the time set forth in Fed. R. App. P. 24(a) if she seeks

to proceed with this appeal.

/s/ Richard E. Dorr

RICHARD E. DORR

UNITED STATES DISTRICT JUDGE

Springfield, Missouri,

Dated: February 28, 2008.

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